

ASSET PURCHASE AGREEMENT

THIS ASSET PURCHASE AGREEMENT (this “Agreement”) is made as of the 25th day of December, 2018, by and between WYZE RADIO, INC., a Georgia corporation (“Seller”), and NEW GROUND BROADCASTING, LLC, a Georgia limited liability company (“Buyer”). Seller and Buyer are sometimes individually referred to in this Agreement as a “Party” and collectively as the “Parties.”

WITNESSETH

WHEREAS, Seller desires to convey and assign and Buyer desires to accept and assume all rights, title, and interest in and to certain assets of broadcast AM station WYZE (FCC Facility ID No. 24145) (the “Station”), subject to the terms and conditions stated herein; and

WHEREAS, Buyer and Seller will also enter into a separate Equipment Sales Agreement that is not contingent on the sale to Buyer of the Station and the assets that are included in this Agreement; and

WHEREAS, the consummation of this Agreement is subject to the prior approval of the Federal Communications Commission (the “FCC”).

NOW, THEREFORE, in consideration of the mutual covenants and conditions herein contained, it is hereby agreed as follows:

1. **ASSETS**. Subject to the prior approval of the FCC, Seller agrees to transfer, assign, convey, and deliver to Buyer, and Buyer agrees to receive and accept, free and clear of all liabilities, debts, liens, charges, assessments and encumbrances of any kind, the following (collectively, the “Assets”):

- (a) all licenses, construction permits, authorizations or other rights of any kind issued or granted by the FCC to Seller with respect to the Station (collectively the “FCC Licenses”) listed in Schedule 1(a);
- (b) whatever rights Seller has with respect to the intangible property of the Station (“Intangible Property”) listed in Schedule 1(b);
- (c) the goodwill of the Station and Seller’s client lists for the Station; and
- (d) all FCC files and records pertaining to the Station (“FCC Records”).

Seller will retain its real property as well as its accounts receivable, cash, deposits and prepaid items, and any asset not specifically identified on Schedules 1(a) through 1(b) hereto. Buyer assumes no liabilities, debts, or obligations, including without limitation, for Station’s personnel or employment contracts, retirement obligations, or any contracts, obligations, or leases of Seller. Buyer assumes no liability for periods on or before the Closing Date (as defined below) under any lease or contract or for any other liability, debt or obligation of Seller, including without limitation, any which may have accumulated or accrued on any contracts, leases, or agreements on or before the Closing Date.

2. **PURCHASE PRICE.** The purchase price for the Assets is Twenty Thousand Dollars (\$20,000.00) (the "Purchase Price"). All prepaid and deferred expenses arising from the conduct of the business and operations of the Station shall be prorated as of 11:59 p.m. of the Closing Date. The prorrations and adjustments contemplated by this Section shall be made to the extent practicable at the Closing (as defined below), and to the extent not made at the Closing shall be made within thirty (30) calendar days after the Closing Date. Buyer shall deposit the amount of Five Thousand Dollars (\$5,000.00) (the "Deposit") by January 7, 2019, with Fletcher, Heald & Hildreth, P.L.C. ("Escrow Agent"). The Escrow Agent will hold and disburse the Deposit pursuant to the terms of the Escrow Agreement entered into by Seller, Buyer and Escrow Agent on or before the date the Deposit is delivered. At the Closing, the Deposit shall be delivered to Seller by Escrow Agent as a credit against the Purchase Price and the balance shall be paid by cashier's check, wire transfer or other form of immediately available funds. Buyer shall have the option of selecting the method by which the balance of Purchase Price shall be delivered at Closing. Should this Agreement be terminated prior to the Closing for any reason other than an uncured default of Buyer, the Deposit shall be returned to Buyer as set forth in Section 9 below.

3. **SELLER'S COVENANTS AND WARRANTIES.** Seller hereby covenants and warrants as follows:

- (a) The FCC Licenses are in full force and effect, and the Station operates in material compliance with the FCC Licenses, the rules and regulations of the FCC, and applicable laws of the State of Georgia and federal laws.
- (b) Seller is aware of no litigation, proceeding, or investigation whatsoever pending or threatened against or relating to Seller, its business, or the Assets to be transferred hereunder, and knows of no reason why the FCC Licenses would not be renewed in the ordinary course.
- (c) Seller will convey said Assets to Buyer in "as is" condition of such Assets on the Closing Date and, except as expressly set forth in this Agreement, makes no warranty whatsoever with regard to the condition of said Assets.
- (d) Seller has full power and authority to enter into and perform this Agreement and this Agreement constitutes a valid and binding Agreement of Seller enforceable in accordance with its terms.
- (e) Seller is responsible for all liabilities and other obligations to all current employees of the Station and any employees hired by Seller up to the Closing Date. It is understood and agreed by the Parties that Buyer may hire new employees to operate the Station for dates after the Closing Date, assumes no liabilities or obligations whatsoever for the Station's current employees, and is under no obligation to hire any such employees.
- (f) As of the Closing Date, Seller will have paid all taxes and assessments, rent, water, sewer, and other utility charges or assessments relating to the Assets, if any.

(g) The warranties, representations, and covenants contained in this Section 3 shall survive Closing for a period of one (1) year.

4. **BUYER'S COVENANTS AND WARRANTIES.** Buyer hereby covenants and warrants as follows:

(a) Buyer has full power and authority to enter into and perform this Agreement, and this Agreement constitutes a valid and binding Agreement of Buyer enforceable in accordance with its terms;

(b) Buyer knows of no reason why it should not be approved to become a holder of the FCC Licenses.

(c) No broker, finder or other person is entitled to a commission, brokerage fee or other similar payment in connection with this Agreement or the transactions contemplated hereby as a result of any agreement or action of Buyer.

(d) Warranties, covenants, and representations contained in this Section 4 shall survive the Closing Date for a period of one (1) year.

5. **FCC ASSIGNMENT APPLICATION.** Seller and Buyer shall file an application with the FCC for consent to the assignment of the FCC Licenses to Buyer within ten (10) business days after executing this Agreement and shall cooperate fully and diligently in seeking FCC's consent to assignment of the FCC Licenses from Seller to Buyer.

6. **CLOSING.** The closing of the sale of the Assets to Buyer (the "Closing") shall take place at a place and time designated by Buyer (the "Closing Date"), but in no event shall the Closing Date be prior to the grant of FCC consent to the assignment of the FCC Licenses to Buyer, or later than seven (7) business days after such grant has become "Final." For purposes of this Agreement, the term "Final" means that action shall have been taken by the FCC (including action duly taken by the FCC's staff, pursuant to delegated authority) which shall not have been reversed, stayed, enjoined, set aside, annulled or suspended; with respect to which no timely request for stay, petition for rehearing, appeal, certiorari, or sua sponte action of the FCC with comparable effect shall be pending; and as to which the time for filing any such request, petition, appeal, certiorari or for the taking of any such *sua sponte* action by the FCC shall have expired or otherwise terminated. .

7. **CLOSING DOCUMENTS.** Seller will at Closing execute and deliver to Buyer customary assignments, instruments, and other documents sufficient to grant to Buyer title to the Assets, free and clear of liabilities, debts, claims, assessments, liens and other encumbrances of any kind. Buyer will at Closing execute and deliver to Seller such documents and instruments of assumption as may reasonably be requested by Seller for Buyer to assume the assignment of the Assets. Buyer and Seller also shall execute and deliver joint instruction to Escrow Agent to deliver the Deposit to Seller. Buyer shall also deliver the balance of the Purchase Price as provided in Section 2 above.

8. **TERMINATION.** This Agreement may be terminated at any time prior to the Closing as follows:

- (a) by mutual written consent of Seller and Buyer;
- (b) by written notice of Seller to Buyer if Buyer breaches in any material respect any of its representations or warranties or other terms of this Agreement, or defaults in any material respect in the performance of any of its covenants or agreements herein contained, and such breach or default is not cured within the Cure Period (as defined below);
- (c) by written notice of Buyer to Seller if Seller breaches in any material respect any of its representations or warranties or other terms of this Agreement, or defaults in any material respect in the performance of any of its covenants or agreements herein contained, and such breach or default is not cured within the Cure Period; or
- (d) by written notice of Seller to Buyer, or Buyer to Seller, if the Closing shall not have been consummated on or before the date which is one hundred eighty (180) days after the execution of this Agreement, and if the party giving notice is not then in default hereunder.

The term "Cure Period" as used herein means a period commencing on the date that a party receives from the other party written notice of breach or default hereunder and continuing for twenty (20) days thereafter.

9. **REMEDIES UPON TERMINATION.** Upon termination under Section 8(a), (c), or (d), the Deposit shall be returned to Buyer and neither party will have any further liability or obligation to the other. Upon termination under Section 8(b), due to default of Buyer, Seller shall be entitled to retain the Deposit as liquidated damages and not as a penalty, which will be Seller's sole and exclusive remedy. If this Agreement is terminated pursuant to Section 8(c) due to the default of Seller, Buyer may, as an alternative to return of the Deposit, bring an action for specific performance, Seller hereby acknowledging that the Assets are of a special, unique and extraordinary character, and that monetary damages would not be sufficient to compensate Buyer under such circumstances.

10. **STATION CONTROL.** Prior to Closing, Seller shall have complete control over the Assets and operation of the Station. Buyer shall have the right to reasonable access to the Station's logs and other records as to the operation of the Station prior to Closing and to inspect the Assets upon prior reasonable written notice to Seller. Upon Closing and the transfer and assignment of the Assets, as contemplated herein, Buyer shall have complete control over the Assets and operation of Station.

11. **INDEMNIFICATION.**

- (a) Seller hereby agrees to indemnify, defend, save, and hold Buyer harmless with respect to any and all claims, losses, obligations, liabilities, costs and expenses, including

reasonable counsel fees, threatened, suffered, incurred, or sustained by Buyer by reason of any misrepresentations by Seller or any breach by Seller of this Agreement or of any of Seller's warranties, covenants, or representations contained in this Agreement, or arising from or by reason of Seller's ownership of the Assets or operation of the Station prior to the Closing Date hereunder. This Section 11(a) shall survive Closing for one (1) year.

(b) Buyer hereby agrees to indemnify, defend, save, and hold Seller harmless with respect to any and all claims, losses, obligations, liabilities, costs, and expenses, including reasonable counsel fees, threatened, suffered, incurred, or sustained by Seller by reason of any misrepresentations by Buyer or any breach by Buyer of this Agreement or of any of Buyer's warranties, covenants, or representations contained in this Agreement or arising from or by reason of Buyer's ownership of the Assets or operation of the Station subsequent to the Closing Date. This Section 11(b) shall survive Closing for one (1) year.

12. **NOTICES.** All notices required or permitted to be given under the provisions of this Agreement shall be in writing, delivered by personal delivery, or sent by commercial delivery service or certified mail, return-receipt requested. Properly made notices shall be deemed to have been given on the date of personal delivery, or the date set forth in the records of the delivery service or on the return-receipt. Notices shall be addressed as follows:

If to Seller: WYZE Radio, Inc.
1955 Cliff Valley Way NE
Suite 200
Atlanta, GA 30329-2437

With a copy (which shall not constitute notice) to:
Matthew H. McCormick, Esq.
Fletcher, Heald & Hildreth, P.L.C.
1300 North 17th St., 11th Floor
Arlington, VA 22209

If to Buyer: Ray Neal
New Ground Broadcasting, LLC
5930 Creekside Dr.
Rex, GA 30273

With a copy (which shall not constitute notice) to:
Michael Richards
P.O. Box 5842
Takoma Park, MD 20913

13. **ASSIGNMENT**. Neither Party shall assign any right under this Agreement nor delegate any duty under this Agreement unless the other Party has consented to any such assignment or delegation in writing. This document shall be binding on the heirs, successors, and assigns of the Parties hereto.

14. **SEVERABILITY AND INDEPENDENT COVENANTS**. If any covenant or other provision of this Agreement is invalid, illegal, or incapable of being enforced by reason of any law, administrative order, judicial decision, or public policy, all other conditions and provisions shall remain in full force and effect. No covenant shall be deemed dependent upon any other covenant or provision unless so expressed in this Agreement.

15. **GOVERNING LAW**. This Agreement shall be governed, construed and enforced in accordance with the laws of the State of Georgia, without regards, however, to the choice of law provisions thereof which may direct the application of the laws of another jurisdiction.

16. **ENTIRE AGREEMENT**. This Agreement, the Schedules hereto, and all documents, certificates, and other documents to be delivered by the Parties pursuant hereto collectively represent the entire understanding and agreement between Seller and Buyer with respect to the subject matter of this Agreement. This Agreement supersedes all prior negotiations among the Parties and cannot be amended, supplemented, or changed except by an agreement in writing that makes specific reference to this Agreement and that is signed by the Party against which enforcement of any such amendment, supplement, or modification is sought.

17. **WAIVER OF COMPLIANCE; CONSENTS**. Except as otherwise provided in this Agreement, any failure of any of the Parties to comply with any obligation, representation, warranty, covenant, agreement, or condition herein may be waived by the Party entitled to the benefits thereof only by a written instrument signed by the Party granting such waiver, but such waiver of failure to insist upon strict compliance with such obligation, representation, warranty, covenant, agreement, or condition shall not operate as a waiver of or estoppel with respect to any subsequent or other failure. Whenever this Agreement requires or permits consent by or on behalf of any Party hereto, such consent shall be given in writing in a manner consistent with the requirements for a waiver of compliance set forth in this Section 17.

18. **COUNTERPARTS**. This Agreement may be signed in counterparts with the same effect as if the signature on each counterpart were upon the same instrument. Executed copies of this Agreement transmitted by facsimile or other electronic means shall be valid and binding.

**[THE REMAINDER OF THIS PAGE HAS BEEN INTENTIONALLY LEFT BLANK--
SIGNATURES APPEAR ON FOLLOWING PAGE]**

SIGNATURE PAGE TO ASSET PURCHASE AGREEMENT

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first set forth above..

SELLER: WYZE RADIO, INC.

By: _____


Jacob E. Bogan
Its Vice-President, Secretary/Treasurer

BUYER: NEW GROUND BROADCASTING, LLC

By: _____

Ray Neal
Managing Member

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By:  _____
Ray Neal
Managing Member

Table of Schedules

- 1(a) FCC Licenses
- 1(b) Intangible Property

Schedule 1(a)

List of Licenses, Permits and Authorizations

Station Call Sign: WYZE

Facility ID No.: 24145

Community of License: Atlanta, GA

Frequency: 1480

License File Number: BL 20110602ADO

Most Recent Renewal File Number: BR-2011130BAE

License Expiration: 04/01/2020

Schedule 1(b)

Intangible Property:

Call sign: WYZE

Slogans: The Legendary AM 1480, WYZE and Gospel Legends, WYZE

Logo: (See attached)

Gospel
WYZE
am 1480

Gospel
WYZE
am 1480